MULTIMEDIA UNIVERSITY

STUDENT ID NO

MULTIMEDIA UNIVERSITY

FINAL EXAMINATION

TRIMESTER 1, 2021/2022

UPP4712 – PROFESSIONAL PRACTICE I

(All sections / Groups)

01 December 2021
Reading Time : 9.15 a.m. – 9.30 a.m.
(15 Minutes)
Answering Time: 9.30 a.m. – 12.30 p.m.
(3 Hours)

INSTRUCTIONS TO STUDENTS

1. Students will have **fifteen minutes** during which they may read the paper and make rough notes ONLY in their question paper. Students then have the remaining **THREE HOURS** in which to answer the questions.

2. This Question paper consists of 4 pages with 4 Questions only.

3. This paper consists of two parts. **PART A**: Answer only **ONE QUESTION**. **PART B**: Answer **ALL QUESTIONS**. All questions carry equal marks and the distribution of the marks for each question is given.
4. Students are only allowed to bring in CLEAN AND ORIGINAL COPY of Legal Profession Act (Act 166), Rules & Orders.

   "Clean" is defined to include no tagging, no annotation either by the publisher or anyone else, and no erased marking. Highlighting and underlining are also prohibited.

5. Please write all your answers in the Answer Booklet provided.

PART A: ANSWER EITHER QUESTION 1A OR QUESTION 1B

QUESTION 1A

Answer BOTH parts of this question

(a) David is a practising Advocate and Solicitor and is well known in Ipoh, as a divorce lawyer. He has been close friends with Paul and Lucy since childhood. Paul and Lucy have been married for 15 years but recently Lucy found out that Paul is having an affair with another lady. David, being a close friend of both Paul and Lucy is aware of their broken relationship. Lucy has appointed David as her counsel in the divorce petition she has filed against Paul. David has also agreed to be a witness for Lucy in the divorce proceedings.

Paul after having been served with the divorce petition, has engaged Messrs. Timothy & Co to act on his behalf in the divorce proceedings. Messrs. Timothy & Co have been acting for both Paul and Lucy in their financial matters throughout their 15 years of marriage.

Evaluate the counsel's conduct in the above question in relation to Legal Profession (Practice and Etiquette) Rules 1978. Your answer must be supported with relevant case law.

(15 Marks)

(b) Harris has just started practice after completing his pupillage about 2 months ago. Recently he successfully represented a famous millionaire. Speaking to the press after the case, Harris said that "The success of this case is a testament to the fact that I am the best junior litigation lawyer in town"

After successful conclusion of the case, the millionaire who is very impressed with Harris's prowess offered him a position as a full-time legal advisor in his company at a monthly salary of RM12000.00. Harris accepted the offer whilst continuing to practice as an Advocate and Solicitor.

Examine Harris's conduct in relation to Legal Profession (Practice and Etiquette) Rules 1978 and Legal Profession (Publicity) Rules 2001.

(10 Marks)

Continued…

OR

QUESTION 1B

Black, who has been newly called to the BAR, wishes to open his own firm at Melaka, to practise both physically and virtually. Black wants his firm's nameplate to be 100 cm x 100 cm and displayed by the road side leading to his office.

In his name card, Black wishes to describe himself as a specialist in criminal law since his master recognised his prowess in criminal law during his pupillage.

Black offered his eldest brother, Red to help him in managing his firm both physically and virtually. His eldest brother, Red is a computer engineer, lost his job due to the Covid -19 pandemic. Red being unemployed, agreed to help Black to manage the firm during his absence.

Black, offered to to pay his cousin sister Purple, who works as a nurse at a private hospital, a commission for every clients that she refers to his firm.

Black plans to launch his firm both physically and virtually soon with a grand ceremony. He intends issuing

invitation cards and pamphlets with his photo to advertise his firm. He plans to wear his robe during the launching ceremony.

Identify ethical issues arising from the above facts with particular reference to the Legal Profession (Practice & Etiquette) Rules 1978 and decided cases (if any).

(Total: 25 marks)

Continued…

PART B : ANSWER ALL QUESTIONS

QUESTION 2

Answer BOTH parts of this question

(a) "The function of the Advocates and Solicitors Disciplinary Board (ASDB) is to adjudicate on complaints of professional misconduct by an Advocate and Solicitor"

Based on the above, illustrate the step-by-step process of Summary Hearing by ASDB once it finds there is a merit in the complaint made against an Advocate & Solicitor.

(7 Marks)

(b) What is meant by solicitor's undertaking and summary jurisdiction that a court has over solicitors?

Your answer must be supported with relevant case law.

(18 Marks)

(Total : 25 marks)

QUESTION 3

"A solicitor's authority flows from his retainer. His authority to act is limited by any special condition imposed and supplemented by any special authority conferred by it."

As per Edgar Joseph Jr FCJ, in Teh Eok Kee & Anor v Tan Chiah Hock & Anor [1995] 3 MLJ 613.

(a) Analyse the above statement with regard to the extention of counsels' authorities in Malaysia.

(17 marks)

(b) Illustrate the consequence for a counsel who acts without authority. Support your answer with relevant authorities.

(8 marks)

(Total : 25 marks)

Continued…

QUESTION 4

"The offence of criminal contempt is committed when the interference with the administration of justice is in the nature of a public wrong, like preventing a judge from giving judgment, threatening a process server or destroying evidence in a case" *(Quoted from Jerald Gomez, "CONTEMPT OF COURT — FREEDOM OF EXPRESSION AND THE RIGHTS OF THE ACCUSED" [2002] 3 MLJ ccxli)*

Based on the above passage, illustrate the various types of criminal contempt. Your answer must be supported with relevant case law.

(Total: 25 Marks)

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